

### **REMARKS**

In the November 12, 2009 Office Action, claims 27-29, 31-42, and 44-52 were rejected in view of the prior art. No other objections or rejections were made in the Office Action.

#### ***Status of Claims and Amendments***

In response to the November 12, 2009 Office Action, Applicant has cancelled claims 34 and 47 and amended independent claims 27 and 40, and in response to the March 9, 2010 Advisory Action, Applicant has amended independent claims 27 and 40 as indicated above. Thus, claims 27-29, 31-33, 35-42, 44-46, and 48-52 are pending, with claims 27 and 40 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### ***Rejections - 35 U.S.C. § 103***

In numbered item 3 of the Office Action, claims 27-29, 31-33, 38, 39, 40-42, 44-46, (apparently 51 also since claim 51 recites limitation that are similar to claim 38), and 52 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kamiya (JP 08-269367) in view of Mizutani (U.S. Patent No. 6,013,724). In numbered item 10 of the Office Action, claims 34-37 and 47-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kamiya in view of Mizutani and further in view of Lever (U.S. Patent No. 5,079,087). In response, Applicant has amended independent claims 27 and 40 as shown above.

#### ***The Structure of Paint Material of the Present Application***

Applicant respectfully asserts that **none** of the cited reference discloses ***the corrosion resistant hydrophobic organic paint material containing an alcohol-based solvent at a content of 1 to 10 wt%***, as recited in the amended independent claims 27 and 40. The Office Action stated that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the appropriate solvent at the appropriate concentration involves only routine skill in the art. Further, the Office Action cited *In re Stevens*, 212 F.2d 197, 101 USPQ 284 (CCPA 1954) that adjustability, where needed, is not a patentable advance. However, Applicant traverses this ground of rejection because mere statements that claims of the present application recites an adjusted feature along with the conclusion that the

claims are not patentable is **contrary** to Patent Rule 37 C.F.R. §1.104(d)(2), “*when a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee,*” because support is lacking. Hence, Applicant respectfully asserts that the unique structure recited in claims of the present application is **not** obvious and respectfully requests the evidential reference(s) and reasoning that would explain the basis that one having ordinary skill in the art at the time the invention was made would have to use the particular alcohol that is recited in independent claims 27 and 40 of the present application.

*Kamiya and Lever*

The attached page of the Advisory Action mentions that, Kamiya and Lever both describe the recited plate material and coating thereon. More specifically, the plate materials used in the Kamiya and Lever publications are the fins which form the parts of heat exchanger.

As mentioned in para [0003] of the Kamiya publication, the aluminum materials that are used for the heat-radiating fins are *usually* treated by chromate or resin to add corrosion-resistant characteristics and a surface treatment is further added on the treatment for the corrosion resistance to give water repellent characteristics. In fact, Lever also mentions that the surfaces of the metal articles, which are the fins of heat exchanger, of Lever’s invention not only show good hydrophilic characteristics, but also exhibit improved corrosion resistance (Column 2, lines 33-36 of the Lever patent). As seen in these publications, it is a given fact that the fins used in this field of technology have both the corrosion-resistant and the hydrophilic structures. Further, each of Kamiya and Lever achieved their objects of the invention on their own. In view of the reason that both Kamiya and Lever aim to improve the heat radiating effect and reduce air flow interference in the spaces between the fins (para [0030] of the Kamiya publication and Column 1, lines 15-23 of the Lever patent), Applicant asserts that the persons with ordinary skill in the art would **not** be motivated to combine the Kamiya publication and the Lever patent because that would require the space between the fins to *narrow* and would increase air flow interference by applying more treatments. Applicant asserts that combining the Kamiya publication and the Lever patent is **not** obvious and also *teaches away* from the present application (MPEP 2141.02, VI. PRIOR ART

MUST BE CONSIDERED IN ITS ENTIRETY, INCLUDING DISCLOSURES THAT TEACH AWAY FROM THE CLAIMS, “a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Furthermore, in the Lever patent, it mentions that coatings containing silicates can cause excessive wear on tooling when the coated metal is formed (Column 1, lines 37-40), thus, Lever clearly **avoided** to use silicates *while* Kamiya uses a hydrophobic silica as a major ingredient of the paint or plate material (note that silicate includes silica). Applicant asserts that the persons ordinary skill in the art would **not** combine the Kamiya publication and the Lever patent because Lever describes that using silicates is *an example of disadvantage*. Thus, Applicant asserts that combining the Kamiya publication and the Lever patent is **not** obvious.

*It is well settled in U.S. patent law, the mere fact that the prior art can be modified does not make the modification obvious, unless an apparent reason exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification.* See, *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some “apparent reason to combine the known elements in the fashion claimed.” *Id.* at 1741. *The current record lacks any apparent reason, suggestion or expectation of success for combining the references to create the Applicant’s unique arrangement of the plate material and the manufacturing method thereof.*

Moreover, Applicant believes that the dependent claims 28, 29, 31-33, 35-39, 41, 42, 44-46, and 48-52 are also allowable over the prior art of record in that they depend from independent claim 27 or 40, and therefore are allowable for the reasons stated above. Also, the dependent claims 28, 29, 31-33, 35-39, 41, 42, 44-46, and 48-52 are further allowable because they include additional limitations. Thus, Applicant believes that since the prior art of record does not disclose or suggest the invention as set forth in independent claim 27 and 40, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Appl. No. 10/554,709

Reply to Office Action of November 12, 2009 and March 9, 2010 Advisory Action  
Amendment dated April 9, 2010

Applicant respectfully requests withdrawal of the rejections.

***Conclusion***

In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 27-29, 31-33, 35-42, 44-46, and 48-52 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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